

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRAIG G. BROWN,

Petitioner,

v.

CASE NO. 05-CV-72440-DT
HONORABLE LAWRENCE P. ZATKOFF

STATE OF MICHIGAN,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION FOR SANCTIONS

This matter is before the Court upon Petitioner's motion for sanctions arising from Respondent's actions in filing a motion to dismiss his habeas petition on exhaustion grounds and Respondent's delay in filing the state court record.¹ Respondent has not yet filed an answer to the motion for sanctions.

Although the Court is sensitive to Petitioner's concerns about delay in the resolution of his federal habeas action, the Court cannot conclude that Respondent's motion to dismiss or any delay by Respondent in providing the state court record was done in bad faith, was motivated by an improper purpose, was frivolous, or otherwise warrants the imposition of sanctions under Rule 11, Rule 16, or Rule 37 of the Federal Rules of Civil Procedure. Respondent's actions in this habeas case are not atypical given the nature of habeas proceedings. Petitioner's allegations of purposeful delay are speculative and unsupported. Sanctions are therefore unwarranted. Moreover, a default judgment is

¹Petitioner also expresses concern about an Oakland County criminal prosecution. That matter, however, is not before the Court in this habeas action.

unavailable in a habeas corpus proceeding under 28 U.S.C. § 2254 on the ground that state officials failed to file a timely response to the petition. *See Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970).

Accordingly;

IT IS ORDERED that Petitioner's motion for sanctions is **DENIED**.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: May 17, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on May 17, 2006.

s/Marie E. Verlinde

Case Manager

(810) 984-3290